



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 203572

PRELIMINARY RECITALS

Pursuant to a petition filed on October 29, 2021, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Monroe County Department of Human Services regarding Medical Assistance (MA), a hearing was held on January 25, 2022, by telephone. The parties agreed to hold open the record for one week to allow the agency to redetermine the overpayment based on petitioner being pregnant during a portion of the overpayment period. The parties also agreed that the agency would be permitted to supplement the record with a written statement. This statement was marked as Exhibit 19.

The issue for determination is whether the agency correctly found petitioner liable for an overpayment of BadgerCare Plus (BCP) benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED] and [REDACTED]
Monroe County Department of Human Services
Community Services Bldg.
14301 Cty Hwy B, Box 19
Sparta, WI 54656-4509

ADMINISTRATIVE LAW JUDGE:
Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. By notice dated June 5, 2018, petitioner was informed that she and her two children were eligible for BCP as of April 1, 2018. She was directed to report to the agency by the 10th day of the following month if household income before taxes exceeded \$1,731.67. Exhibit 12.
3. On December 18, 2019, the agency was alerted to a wage discrepancy. Exhibit 15.
4. On July 12, 2021, the agency sent petitioner a letter that indicated she may have been overpaid BCP benefits. The letter requested that petitioner provide paystubs or employer printout of monthly gross wages from [REDACTED]. Exhibit 13.
5. Petitioner did not provide the income information requested in the July 12, 2021 letter. As such, the agency used the State Wage Match to determine petitioner's gross income from the [REDACTED]. That source reflected petitioner's gross income from that employer of \$2,187.33 for July 2018; \$2,187.33 for August 2018; \$2,187.33 for September 2018; \$1,856.37 for October 2018; \$1,856.37 for November 2018; and \$1,856.37 for December 2018. Exhibits 14 and 17.
6. In addition to income from the [REDACTED], the agency found petitioner had self-employment income of \$64.41 each month between June 2018 and December 2018. Exhibits 10, 11, and 17.
7. On September 14, 2021 the agency sent petitioner notice of BCP Overpayment of \$2,372.31 for the period of September 1, 2018 through April 30, 2019, Claim # [REDACTED]. The basis for the overpayment was that petitioner failed to report household income exceeded program limits. See, Exhibit 17 for the agency's overpayment computations. The overpayment was the capitation fees and fees for services paid on petitioner's behalf. Exhibits 16 and 17.
8. On October 29, 2021, petitioner appealed. Exhibit 18.
9. At the hearing, petitioner reported she had learned she was pregnant in October 2018. The parties agreed to hold open the record so the agency could redetermine the overpayment based on this new information.
10. By letter dated January 25, 2022, the agency informed petitioner that if she had timely reported the pregnancy to the agency in October 2018 she would have been eligible for BCP as of November 2018. As such, the agency rescinded the overpayment for November 2018 through April 2019. This left an overpayment remaining of \$602.42 for BCP benefits petitioner received September and October 2018. Exhibit 19.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of

income or assets in an amount that would have affected the recipient's eligibility for benefits.

3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also BCP Handbook, 28.2. The overpayment must be caused by the client's error. BCP overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the Forward Health interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." BCP Handbook, 28.4.2.

In this case, the agency had to resort to using the State Wage Match to determine petitioner's gross income for the period of the overpayment. This is because petitioner failed to respond to its request to provide paystubs or employer printout of wages. Petitioner did not dispute the agency's findings as to her income. She argued that the agency's overpayment calculation should factor in the fact that she was pregnant, which she found out about in October 2018. She pointed to no other error in the agency's calculations. The entirety of the overpayment was for BCP benefits provided to petitioner, not her children.

The parties agreed to hold open the record to afford the agency the opportunity to redetermine the overpayment based on petitioner's pregnancy status. By letter dated January 25, 2022, the agency informed petitioner that if she had timely reported in October 2018 that she was pregnant, she would have been eligible for BCP as of November 2018. As such, the agency rescinded the overpayment for November 2018 through April 2019. This left an outstanding overpayment of \$602.42 for BCP benefits petitioner received September and October 2018.

The BCP income limit for a pregnant woman is 306% of the Federal Poverty Limit (FPL). BCP Handbook, 16.1.1. For a household of three, 306% FPL in 2018 was \$5,298.91. BCP Handbook, 50.1, Release 18-01. Petitioner's household income was significantly below that amount the entirety of the overpayment period. See, Exhibit 17. As petitioner was eligible for BCP as a pregnant women November 2018 through April 30, 2019, the agency correctly rescinded the overpayment for this period.

A BCP member must report changes in household composition, including pregnancy, within 10 days. BCP Handbook, 27.2. The agency's finding of petitioner being eligible for BCP as a pregnant woman as of the month following the date she testified she first learned of that status (October 2018) is reasonable, especially since the record indicates she actually did not inform the agency of that status until April 2019. See, Exhibit 15. I find that the record supports the agency's amended overpayment determination of \$602.42 for benefits received in September and October 2018.

CONCLUSIONS OF LAW

The agency correctly found petitioner liable for an overpayment of \$602.42 in BadgerCare Plus benefits received September and October 2018.

THEREFORE, it is

ORDERED

That petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.


The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

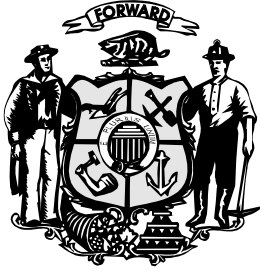
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of February, 2022



Jason M. Grace
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 7, 2022.

Monroe County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability